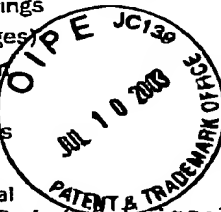


3350-0019C

Patent Dkt. No. 1158.41319PC3 Attorney Initials AASApplication No 09/414,731 Filing Date 10/8/99Applicant(s) Ganesan et al.Papers Filed Herewith on July 10 2003

Receipt is hereby acknowledged of the papers filed as indicated by the checked items in connection with the above-identified application:

- ☐ New Application Transmittal Form ☒ Credit Card Payment Form
 Pages of Specification (claims) Fees \$ 430.00
 Sheets of Drawings ☐ Amendment
☐ Declaration (pages) ☐ Response to Office Action
☒ Fee Transmittal Form ☒ Petition for Extension of Time (1 mos.)
☐ Claim for Priority ☐ Information Disclosure Statement
 ☐ Priority Documents ☐ PTO-1449 ☐ Copies of References
☐ Assignment Papers ☐ Revised Drawings (sheets)
☐ Issue Fee Transmittal ☐ Notice of Appeal
☒ Other Appeal Brief Submittal and Appeal Brief-in triplicate-



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FACSIMILE TRANSMISSION		
From: <u>Alfred A. Stadnicki</u>		Date: February 27, 2004
Client/Matter No.: 09/414,731		No. of Pages: <u>35</u> (including cover sheet)
Deliver To	Facsimile Number	Reference Number
Examiner Richard Fults	703-308-3691	Our Ref: 3350-19C File No. 1158.41319PC3

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

COMMENTS/MESSAGE:

Enclosed please find signed copies of the papers which we filed with the U.S. Patent and Trademark Office on July 10, 2003, along with a postcard receipt. Thank you.

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 Client Ref.: Boss-C

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
 Ganesan et al.

:
 :
 : Group Art Unit: 3628

Application No: 09/414,731

: Examiner: Richard Fults
 :
 :

Filed: October 8, 1999

For: ELECTRONIC BILLING WITH FLEXIBLE BILLER CONTROLLED ELECTRONIC
 BILL PRESENTMENT

TRANSMITTAL

Honorable Assistant Commissioner
 for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

Transmitted herewith is an Appeal Brief (in triplicate) in the above-identified application.

☐ No additional fee is required.

☒ Also attached: Petition for Extension of Time for one (1) month and Appeal Brief Submittal.

fee has been calculated as shown below:

	NO. OF CLAIMS	HIGHEST PREVIOUSLY PAID FOR	EXTRA CLAIMS	RATE	FEE
Total Claims				x \$18 =	\$0
Independent Claims				x \$84 =	\$0
Petition for Extension of Time for 1 months					\$110.00
Appeal Brief					\$320.00
TOTAL FEE DUE					\$430.00

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File No.: 1158.41319PC3
Client Ref.: Boss-C

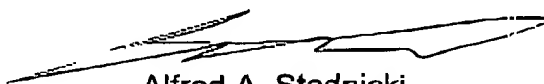
PATENT

[X] A Credit Card Payment Form in the amount of \$ 430.00 is attached

[X] Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment, to Deposit Account No. 01-2135, including any filing fees under 37 CFR 1.16 for presentation of extra claims and any patent application processing fees under 37 CFR 1.17.

Respectfully Submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP



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Date: July 10, 2003

Our Ref.: 3350-0019C
File No.: 1158.41319PC3
Client Ref.: Boss-C

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Ganesan et al.

:
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: Group Art Unit: 3628

Application No: 09/414,731

:
: Examiner: Richard Fults

Filed: October 8, 1999

:
:

For: ELECTRONIC BILLING WITH FLEXIBLE BILLER CONTROLLED ELECTRONIC BILL
PRESENTMENT

PETITION FOR EXTENSION OF TIME

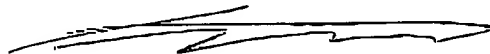
Honorable Assistant Commissioner
for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant(s) petition the Assistant Commissioner of Patents to extend the time for response to the Notice of Appeal, for one (1) month from June 30, 2003 to July 30, 2003.

A Credit Card Payment form in the amount of the \$110.00 fee to cover the cost of the extension is attached. Any deficiency or overpayment should be charged or credited to Deposit Account No. 01-2135.

Respectfully Submitted,
ANTONELLI, TERRY, STOUT & KRAUS, LLP



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Date: July 10, 2003

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File No.: 1158.41319PC3
Client Ref.: Boss-C

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of : Art Unit: 3628
GANESAN et al. :
Serial No. 09/414,731 :
Filed: October 8, 1999 : Examiner: Richard Fults

For: ELECTRONIC BILLING WITH FLEXIBLE BILLER CONTROLLED
ELECTRONIC BILL PRESENTMENT

APPEAL BRIEF SUBMITTAL

Honorable Assistant Commissioner
for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

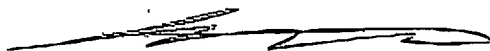
Sir:

An Appeal Brief is submitted herewith in triplicate, in support of the Notice of Appeal filed April 30, 2003. PTO Credit Card Payment Form 2038 authorizing the amount of \$320.00, for the Appeal Brief fee is enclosed.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment, to Deposit Account No. 01-2135, including any patent application processing fees under 37 CFR 1.17.

Respectfully Submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP



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Date: July 10, 2003

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File No.: 1158.41319PC3
Client Ref.: Boss-C

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of
Ganesan et al.

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Group Art Unit: 3628

Application No: 09/414,731

Examiner: Richard Fults

Filed: October 8, 1999

For: ELECTRONIC BILLING WITH FLEXIBLE BILLER CONTROLLED ELECTRONIC
BILL PRESENTMENT

APPEAL BRIEF

Honorable Assistant Commissioner
for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted (in triplicate) in support of the Notice of Appeal filed April 30, 2003 of finally rejected claims as set forth in the final Official Action dated March, 5, 2003.

I. REAL PARTY IN INTEREST

CheckFree Corporation, Reel 010480, Frame 0322.

II. RELATED APPEALS AND INTERFERENCES

"U.S. Application Serial Number 09/301,068, which is parented by related U.S. Application Serial Number 09/017,169 (now Patent Number 6,055,567), is currently under appeal."

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III. STATUS OF CLAIMS

Claims 1-27 are pending in this application, of which claims 1, 12, 18, 22, and 23 are independent. Each of claims 1-27 is subject to appeal.

IV. STATUS OF AMENDMENTS

No amendments have been filed or entered. A Request for Reconsideration was filed on December 16, 2002.

V. SUMMARY OF INVENTION

In summary, and as shown in preferred embodiments/implementations in Figures 3-9 and Figures 21-25C and described in the related text (see in particular text beginning on page 53, line 16), according to the present invention recited in independent claim 1, a network for electronically presenting bill related information (such as one utilizing the Internet, for example see page 21, line 9, through page 22, line 14), includes a central network station (e.g. EPCS 58) and a plurality of different user stations (e.g. a plurality of user entities 52).

The central network station is configured to transmit bill availability information (e.g. messages 1216 of Figure 21) identifying available bills of a plurality of different billers for a plurality of different users. Information associated with each of the identified bills of a respective one of the plurality of different billers is available at one of a first network address (e.g. URL 1A of Figure 22B) associated with the respective biller and a second network address (e.g. URL 1B of Figure 22B) associated with the respective biller. Each of the plurality of different user stations is associated with a respective one of the plurality of different users, and configured to receive the transmitted bill availability information (e.g. message 1216 of Figure 21) for its associated user and to select one of the identified bills (e.g. the "gas bill", see for example Figures 23A-23C).

A first of the plurality of user stations, associated with a first of the plurality of different users, is linked to the first network address associated with a first of the plurality of different billers (e.g. see message 1218A of Figure 24A) based on a first bill selection by the first user station. On the other hand, a second of the plurality of user

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stations associated with a second of the plurality of different users is linked to the second network address (e.g. see message 1218B of Figure 24B or message 1218C of Figure 24C) associated with the first biller based on a second bill selection by the second user station.

According to claim 2, the identified bill of the first biller (e.g. the "gas bill") for the first user is available with supplemental information at the first network address (see SPECIAL OFFER 1166A of Figure 25A), and the identified bill of the first biller for the second user (e.g. the "gas bill") is available without the supplemental information at the second network address.

According to claim 3, the transmitted bill availability information identifying the available bill of the first biller for the first user includes a hyperlink to the first network address, and the transmitted bill availability information identifying the available bill of the first biller for the second user includes a hyperlink to the second network address.

In accordance with claim 4, the first user station is automatically linked to the first network address responsive to the first bill selection, and the second user station is automatically linked to the second network address responsive to the second bill selection.

Claim 5 requires a plurality of different biller stations (e.g. a plurality of biller entities 56), each associated with a respective one of the plurality of different billers. A first of the plurality of different biller stations is associated with the first biller. The first network address (e.g. URL 1A of Figure 22B) is a network address associated with the first biller station, and the second network address (e.g. URL 1B of Figure 22B) is a network address associated with the central processing station.

According to claim 6, each of the plurality of user stations is further configured to display the transmitted bill availability information (e.g. see Figures 23A-23C), to receive an input of its associated user (e.g. via a keyboard or mouse etc.), and to select one of the identified bills based on the received input.

In accordance with claim 7, the plurality of user stations are further configured to transmit requests for the bill availability information (e.g. message 1212 of Figure 21), and the central network station is further configured to transmit the bill availability

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information (e.g. message 1216 of Figure 21) responsive to the transmitted requests.

Claim 8 requires that the bill availability information identify available bills without identifying an amount of each of the bills (e.g. see Figures 23A and 23B).

Claim 9 requires that the bill availability information identify the total amount of each of the available bills (e.g. see Figure 23C). Each of the plurality of different user stations is further configured to select one of the identified bills (e.g. the "gas bill") for payment. The first and the second user stations are respectively linked to the first and the second network addresses (e.g. URL 1A and 1B of Figure 22B) based on a bill selection for one of viewing and payment of the selected bill.

According to claim 10 the information associated with each of the identified bills available at the first network address is promotional information (e.g. see message 1222D of Figure 24D) and the information associated with each of the identified bills available at the second network address is detailed bill information (e.g. see message 1222C of Figure 24C).

In accordance with claim 11, a database (e.g. Database 32, see also Figures 22A and B) is configured to store the bill availability information. The central network station is further configured to transmit the stored bill availability information (e.g. in message 1216 of Figure 21).

Claims 12-17 are directed to the inventive method.

Claims 18-21 recite a system embodiment which includes a memory (e.g. memory 74 of Figure 5) configured to store identifiers of available bills of a plurality of different billers for a plurality of different users, and network addresses (e.g. URL 1A and 1B of Figure 22B) at which information associated with the identified bills is available, including a first bill identifier which identifies a first of the available bills of a first of the plurality of billers for a first of the plurality of users and a second bill identifier which identifies a second of the available bills of the first biller for a second of the plurality of users. The system also includes a processor (e.g. processor 72 of Figure 5) configured to direct the transmission of the stored first bill identifier to the first user with a first of the network addresses, and the transmission of the stored second bill identifier to the second user with a second of the network addresses, the first network address

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being different than the second network address. The information associated with the first bill is available at the first network address and the information associated with the second bill is available at the second network address, as discussed above.

Claim 22 recites the inventive database for storing bill related information (e.g. see Figures 22A and 22B), which includes identifiers of a plurality of different users, and identifiers of a plurality of available bills of a biller for the plurality of different users. The database must also include a network location indicator associated with one or more of the plurality of available bills and indicating that a network location at which information associated with the one or more bills is available is different than a network location at which information associated with other of the plurality of available bills is available.

Claims 23-27 are directed to a software implementation of the invention.

VI. ISSUES

Whether claims 1-27 are obvious, under 35 U.S.C. § 103(a), over Remington et. al. (U.S. Patent No. 6,070,150A) in view of Lemay, Teach Yourself Web Publishing With HTML 3.0 in a Week, 1996 and Wall Street *E Banking, (cited as having a 1/7/1997 publication date).

VII. BRIEF DESCRIPTION OF THE REFERENCES

Remington is directed to an electronic bill presentment and payment system.

Lemay, is directed to Web Publishing using HTML 3.0.

Wall Street *E Banking generally describes an electronic bill presentment and payment system, and refers to a then current first class stamp price of \$0.34.

VIII. THE REJECTION

In a first substantive Official Action issued on August 16, 2002, claims 1-27 stood rejected under 35 U.S.C. § 103(a) as obvious over Remington et. al. (U.S. Patent No. 6,070,150A) in view of Lemay, Teach Yourself Web Publishing With HTML 3.0 in a Week, 1996 and Wall Street *E Banking, 1/7/1997.

In the final Official Action issued March 5, 2003, the rejection is maintained

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notwithstanding the traversal arguments submitted in the Request for Reconsideration filed on December 16, 2002.

IX. GROUPING OF CLAIMS

Claims 1-27 are pending in this application. Claims 1-27 are finally rejected and subject to this appeal.

Rejected claims 1, 12, 18, 22, and 23 are independent. Accordingly, the invention is defined within groupings of claims (i) 1-11, (ii) 12-17, (iii) 18-21, (iv) 22 and (v) 23-27. However, the claims of each group do not stand or fall together. Each of claims 1, 2, 3, 4, 5, 9, 10, 12, 13, 14, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 27 recite features which form an independent basis for allowance. Hence, claims 1, 6-8 and 11 stand and fall together; claims 12, 15 and 17 stand and fall together; claims 23 and 26 stand and fall together; claim 2 stands and falls alone; claim 3 stands and falls alone; claim 4 stands and falls alone; claim 5 stands and falls alone; claim 9 stands and falls alone; claim 10 stands and falls alone; claim 13 stands and falls alone; claim 14 stands and falls alone; claim 16 stands and falls alone; claim 18 stands and falls alone; claim 19 stands and falls alone; claim 20 stands and falls alone; claim 21 stands and falls alone; claim 22 stands and falls alone; claim 24 stands and falls alone; claim 25 stands and falls alone; and claim 27 stands and falls alone.

X. ARGUMENT

Claims 1-27 stand rejected under 35 U.S.C. § 103(a) as obvious over Remington et. al. (U.S. Patent No. 6,070,150A) in view of Lemay, Teach Yourself Web Publishing With HTML 3.0 in a Week, 1996 and Wall Street *E Banking, (cited as having a 1/7/1997 publication date).

Appellants respectfully traverse the rejections based on the prior art applied against the claims now pending on appeal. As discussed below in detail, it is respectfully submitted that the rejection relies upon art that has been combined without any motivation to do so and that is not prior art with respect to the present application. It is additionally respectfully submitted that the final rejection lacks the requisite supporting

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factual basis and/or reasonable rationale, and accordingly cannot be understood. Further still, it is respectfully submitted that the art applied in rejecting the claims neither teaches nor suggests the claimed invention. It is also respectfully submitted that recited limitations have been ignored and the relied upon art has been construed in a manner inconsistent with its own teaching and the rejection is at best based on an improper hindsight reconstruction of the claimed invention.

1. THE EXAMINER HAS FAILED TO ESTABLISH A PRIMA FACIE CASE

The initial burden of establishing a basis for denying patentability to a claimed invention rests upon the examiner. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Thorpe, 777 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985); In re Piasecki, 745 F.2d 1468, 223 USPQ 785 (Fed. Cir. 1984).

The limitations required by the claims cannot be ignored. See In re Wilson, 424 F.2d 1382, 165 USPQ 494 (CCPA 1970). All claim limitation, including those which are functional, must be considered. See In re Oelrich, 666 F.2d 578, 212 USPQ 323 (CCPA 1981). Hence, all words in a claim must be considered in deciding the patentability of that claim against the prior art. Each word in a claim must be given its proper meaning, as construed by a person skilled in the art. Where required to determine the scope of a recited term, the disclosure may be used. See In re Barr, 444 F.2d 588, 170 USPQ 330 (CCPA 1971).

The Examiner must provide sufficient factual basis or rationale as to how features of the invention recited in the claims are taught or suggested in the applied art. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988). That is, objective evidence must be presented by the Examiner in support of the rejection. Without such support, the rejection is improper per se.

Furthermore, MPEP §707.07 clearly requires that "before ... rejection is in order a clear issue should be developed between the Examiner and applicant." Indeed, the Manual states that "the references should be fully applied" (emphasis added), so as to deal justly with the applicant as well as the public. The Manual goes on to state that "present practice does not sanction hasty and ill-considered ... rejections". "The

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applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end." "The examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed ..."(emphasis added).

MPEP § 707.07(g) instructs an Examiner that "[w]here a major technical rejection is proper, it should be stated with a full development of reasons rather than by a mere conclusion coupled with some stereotyped expression". Omnibus rejections are to be avoided. Hence, a plurality of claims should never be grouped together in a common rejection, unless that rejection is applicable to all the claims in the group (See MPEP §707.07(d)).

It is respectfully submitted that the Examiner has failed to establish a prima facie case for the rejection. More particularly, the Examiner has failed to provide objective support or reasonable rationale for the rejections, has ignored limitations recited in the claims, has applied art in a manner inconsistent with its teachings, and has applied art which is not prior art with respect to the subject application.

The Examiner applied Wall as prior art, citing a publication date of 1/7/1997. However, Wall indicates that the current price of a first class stamp at the time of publication was \$0.34 (see page 3, penultimate paragraph). The cost of a first class stamp was raised to \$0.34 on 1/7/2001. Accordingly, contrary to the Examiner's assertion, the publication date of Wall is necessarily no earlier than 1/7/2001. Therefore, Wall is not prior art with respect to the present application.

The Examiner rejects all claims based on a general reference to "at least columns 1-20 and in particular, columns 1-8 and 16-17" of Remington, "at least pages 4-11 and 114-115" of Lemay and "pages 1-3" of Wall. The Examiner fails to identify any particular disclosure within these references which suggests the features recited in each of the present claims.

Hence, the Examiner has made an omnibus rejection of the claims, without consideration of the specific limitations recited in each claim. Indeed, the Examiner has ignored numerous limitations recited in each of the independent claims, as well as

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numerous dependent claims.

With regard to Remington, the Examiner states that "Remington generally describes the capabilities of the Internet to cross access information through hyperlinks to sites and databases, but Remington does not fully describe these capabilities".

The Examiner proposes to cure the defects in Remington by modifying Remington based on the teachings of Lemay and Wall.

However, even if the proposed combination were motivated (which it is respectfully submitted is not the case) the Examiner's contentions regarding Lemay's and Wall's disclosure cannot be understood, since the Examiner has failed to identify any particular disclosure within any of the applied art references which teach or suggest the features and relationships recited in the claimed combinations.

Furthermore, it is respectfully submitted that the applied prior art lacks any teaching or suggestion of various claimed features. Indeed, the rejection itself evidences that the Examiner has failed to perform the mandated analysis, and has completely ignored recited features of the invention as claimed.

In applying Lemay, the Examiner appears to rely, for support of the asserted position, on "my ebay", without even considering if the "my ebay" is prior art to the present invention.

The Examiner asserts that Wall "describes how simple their [bill presentment] system is to receive, review, and pay bills presented on the Internet in different formats, with user customized features of organizing the bills for payment, which system incorporates features described in Remington and Lemay and contained in claims 1-27".

However, as discussed above, Wall is not prior art. Furthermore, even if it were prior art, the Examiner has failed to identify where, within the references, these bald assertions (particularly as they relate to the features expressly required by the present claims) find support.

The Examiner concludes that all claims are obvious over the applied combination of art "because it would have been obvious to one skilled in the art at the time of the invention to add the teachings of Lemay and Wall to those of Remington, and to add

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those of Remington to those of the others for the same reason."

However, the Examiner has failed to explain why, or to even identify where, within the prior art, the recited features of the invention are disclosed (either explicitly or inherently), let alone how the teachings of the respective references could be combined to suggest to the present invention.

The Examiner asserts that "it would have been obvious to one skilled in the art at the time of the invention to use cross linked hyperlinks to enable the consumer to access information at the sites of both the bill aggregator and the original payee from each other's sites because that would be common sense and beneficial, knowing that a consumer would want to contact the original payee in the event of questions about their bill, as the aggregator would not normally know the details the payee would, and the payee would not normally have the latest status of payment that the aggregator would, and each would have a different set of data from the consumer database to present to each individual consumer at their site" (emphasis added).

However, besides the fact that the Examiner's assertions are entirely unsupported, common sense and simplicity, as the Federal Circuit has recently reiterated, (see *In re Lee* cited below) cannot form the basis of an obviousness rejection. What the Examiner considers to have been common sense at the time of the invention is irrelevant. Furthermore, the relevance of the Examiner's assertions to the claimed invention is entirely unclear.

It is respectfully submitted that the Examiner has failed to identify any disclosure within the applied prior art, which in any way, suggests that different users should be linked to different sites to access their respective bills from the same biller.

The Examiner appears to argue that the linking of different users to different network addresses to obtain their respective bills from the same biller is somehow simply a design choice. However, design choice requires motivation which must be found within the record (see *In re Chu*, 36 USPQ2d 1089 (Fed. Cir. 1995)). There is no design choice where the structure and functions differ from that disclosed within the applied prior art (see *In re Gul*, 25 USPQ2d 1076), as is the case here. Furthermore, evidence is required as to why one skilled in the art would depart from that which is

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described within the applied prior art. (In re Bezombes, 164 USPQ 387 (CCPA 1970)).

It is respectfully submitted that the Examiner has failed to identify any motivation for a design choice. Furthermore, the structures and functions described in the applied prior art differ substantially from those of the present claims. For example, the primary reference, Remington, clearly discloses in Figures 4, 11 and 12, that all bills of an individual biller are accessed at a single address, be it the address of the biller or the address of the intermediary. Likewise, Wall (which is not prior art) describes a system in which "each bill arrives securely in a password-protected bill center" which implicitly, if not explicitly, indicates that all bills of a biller are accessed at the same network address, irrespective of which user is accessing his/her bill.

Additionally, there is nothing which the Examiner has identified in Lemay's general disclosure relating to web-publishing which would suggest or otherwise motivate the modifications which have been proposed to that which is taught by Remington.

The Examiner argues that "regarding bills of a single biller being stored at different addresses with information at one address for one user not included with the bill available to another user at another address, it would be obvious that each user has a different set of bills not available to other users at any address".

The relevance of the Examiner's assertion is not understood. More particularly, it is unclear what reliance the Examiner places on the fact that a bill of a biller for one user is not made available to another user.

While it is acknowledged that hyperlinks and communications networks (such as the Internet) are not new, what is new is the use of these tools in a novel and unobvious way to solve a very particular problem.

The Examiner asserts "in claim 9 Remington teaches multiple users of the biller and allows for hyperlinks to other addresses, one of which could be a second billing address".

However, the Examiner fails to provide any support for the asserted conclusion. Furthermore, as noted above, what could be done is not the test, rather one must find a suggestion within the prior art to modify Remington to function in a manner in which

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Remington has not disclosed and a motivation to do so.

The Examiner also asserts that it is common knowledge that "Checkfree (the assignee of the present application) and Intuit and VISA have users numbering in the tens of thousands". While this is correct, at least with respect to Checkfree, the relevance of the assertion is unclear.

The Examiner asserts for the first time in the final Official Action that claim 22 is non-statutory. However, the Examiner fails to provide any basis for this conclusion.

As discussed above, the initial burden of establishing a prima facie basis for the rejection of the claims lies with the Examiner. If no prima facie case is established, no rebuttal is required.

2. THERE IS NO MOTIVATION TO COMBINE THE ART AS PROPOSED BY THE EXAMINER

It is incumbent upon the Examiner to provide a basis in fact and/or cogent technical reasoning to support the conclusion that one having ordinary skill in the art would have been motivated to combine references to arrive at a claimed invention. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988). In so doing, the Examiner is required to make the factual determinations set forth in Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 148 USPQ 459 (1966), and to provide a reason why one having ordinary skill in the art would have been led to modify the prior art reference to arrive at the claimed invention. Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 227 USPQ 657 (Fed. Cir. 1985). Such a reason must stem from some teaching, suggestion or inference in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 227 USPQ 657 (Fed. Cir. 1985); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 221 USPQ 929 (Fed. Cir. 1984); In re Semaker, 702 F.2d 989, 217 USPQ 1 (Fed. Cir. 1983).

It is respectfully submitted that there is nothing within any of the applied prior art teachings which would suggest the Examiner's proposed modification to arrive at the

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invention claimed in the present application. Rather, the applied prior art lacks any recognition, let alone suggestion, that the proposed modifications could be beneficial. Additionally, it is unclear (and the Examiner has failed to provide any explanation of) how one skilled in the art could go about modifying the applied references as proposed to arrive at the subject invention. Furthermore, the proposed combination includes art which is not prior art.

The Examiner asserts that the proposed combination is motivated because "it would have made common sense, been beneficial, and provided a more flexible and cost efficient system of bill presentment and payment communications to the consumer, it would have been obvious to one skilled in the art at the time of the invention to add the teaching of Lemay and Wall to those of Remington, and to add those of Remington to the others for the same reason.

However, the Examiner provides no support for these baldly asserted conclusions.

The fact that the prior art could be modified so as to result in the combination defined by the claims at bar does not make such a modification obvious, unless the prior art suggests the desirability of that modification. It is respectfully submitted that the Examiner has failed to identify anything within the applied prior art which suggests the modifications proposed by the Examiner.

3. THE APPLIED REFERENCES FAIL TO SUGGEST THE CLAIMED INVENTION

In rejecting claims under 35 U.S.C. 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. Stratoflex, Inc. v. Aeroquip Corp., 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); In re Wamer, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967). It also is incumbent upon the Examiner to provide a basis in fact and/or cogent technical reasoning to support the conclusion that one having ordinary skill in the art would have been motivated to combine references to arrive at a claimed invention. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988). In so doing, the Examiner is required to make the factual determinations set forth in Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 148 USPQ 459 (1966),

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and to provide a reason why one having ordinary skill in the art would have been led to modify the prior art reference to arrive at the claimed invention. Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 227 USPQ 657 (Fed. Cir. 1985).

Such a reason must stem from some teaching, suggestion or inference in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 227 USPQ 657 (Fed. Cir. 1985); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 221 USPQ 929 (Fed. Cir. 1984); In re Sernaker, 702 F.2d 989, 217 USPQ 1 (Fed. Cir. 1983). Inherency requires certainty, not speculation. In re Rijckaert, 9 F.3rd 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); In re King, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986); W. L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983); In re Oelrich, 666 F.2d 578, 212 USPQ 323 (CCPA 1981); In re Wilding, 535 F.2d 631, 190 USPQ 59 (CCPA 1976). Objective evidence must be relied upon to defeat the patentability of the claimed invention. Ex parte Natale, 11 USPQ2d 1222 (BPAI 1988).

In determining obviousness, the inquiry is not whether each element existed in the prior art, but whether the prior art made obvious the invention as a whole for which patentability is claimed. Hartness Int'l, Inc. v. Simplimatic Eng'g Co., 819 F.2d 1100, 2 USPQ2d 1826 (Fed. Cir. 1987). It is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. In re Wesslau, 353 F.2d 238, 147 USPQ 391 (CCPA 1951). Piecemeal reconstruction of prior art patents is improper. In re Kamm, 452 F.2d 1052, 172 USPQ 298 (CCPA 1972). The Examiner must give adequate consideration to the particular problems and solution addressed by the claimed invention. Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 15 USPQ2d 1321 (Fed. Cir. 1990); In re Rothermel, 276 F.2d 393, 125 USPQ 328 (CCPA 1960).

The fact that the prior art could be modified so as to result in the combination defined by the claims does not make the modification obvious unless the prior art suggests the desirability of the modification. In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed.

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Cir. 1986). The test is what the combined teachings would have suggested to those of ordinary skill in the art. In re Keller, 642 F.2d 413, 208 USPQ 817 (CCPA 1981). Simplicity and hindsight are not proper criteria for resolving obviousness, In re Warner, supra. Furthermore, as the Federal Circuit recently reiterated, reliance on common knowledge and/or common sense also cannot be the basis of finding obviousness (See In re Lee 61 USPQ 2d 1430 (Fed. Cir. 2002)). The deficiencies in the applied art cannot be remedied by general conclusions which, in view of the disclosure in the present application, may appear to be common sense.

The proper approach to the issue of obviousness is whether the hypothetical person of ordinary skill in the art, familiar with the references, would have found it obvious to make a structure corresponding to what is claimed. In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Sernaker, 702 F.2d 989, 217 USPQ 1 (Fed. Cir. 1983). Hindsight obviousness after the invention has been made is not the test. In re Carroll, 601 F.2d 1184, 202 USPQ 571 (CCPA 1979). The reference, viewed by itself and not in retrospect, must suggest doing what applicant has done. In re Shaffer, 229 F.2d 476, 108 USPQ 326 (CCPA 1956); In re Skoll, 523 F.2d 1392, 187 USPQ 481 (CCPA 1975).

Again, the issue is not whether it is within the skill of the artisan to make the proposed modification but, rather, whether a person of ordinary skill in the art, upon consideration of the references, would have found it obvious to do so. The fact that the prior art could be modified so as to result in the combination defined by the claims would not have made the modification obvious unless the prior art suggests the desirability of the modification. See In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984), In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986), In re Keller, supra. See In re Laskowski, F.2d., 10 USPQ2d 1397 (CAFC 1989).

With regard to distinguishing aspects of the invention, independent claim 1 requires that a central station transmit bill availability information which identifies available bills for multiple users. A first user station associated with a first user is linked to a first network address associated with a first biller based on the selection of the bill of that biller for the first user by the first user station from the transmitted availability information. A second user station associated with a second user is linked to a second

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network address which is also associated with the first biller based upon a selection of the bill of that biller for the second user by the second user station, from the transmitted availability information.

It is respectfully submitted that the applied prior art lacks any teaching or suggestion of providing different users with information indicative of the availability of a bill from a single biller and linking each of those user's to a different biller site based on the selection of the applicable user's bill. Furthermore, it is respectfully submitted that the Examiner has failed to identify any disclosure within the applied prior art, which in any way, suggests that different users should be linked to different biller sites to access their respective bill from the same biller.

Independent claim 12 is distinguishable on similar grounds.

Independent claim 18 recites a memory configured to store identifiers of available bills and network addresses at which the identified bills are available, including a first bill identifier which identifies a first available bill of a first biller for a first user and a second bill identifier which identifies a second available bill of the first biller for a second user. Also required is a processor to direct the transmission of the stored first bill identifier to the first user with a first network address and the stored second bill identifier to the second user with a second (different) network address, while the second bill, without this other information being available at the second address.

It is respectfully submitted that the Examiner has failed to identify where such a memory or processor are suggested in the applied prior art. Further, the Examiner has failed to identify any suggestion in the applied prior art that identifiers of available bills of a single biller should or could be transmitted to different users with different network addresses at which the bills themselves are available.

Furthermore, the applied prior art lacks any suggestion that storing bills of the same biller at different network addresses could be beneficial. Additionally, the applied prior art lacks any suggestion that bills of a single biller could or should be stored at different network addresses, such that the bill available to one user at one address will have information which is not included with the bill available to another user at the other address.

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Similarly, the applied prior art lacks any suggestion of the database recited in independent claim 22, which requires that identifiers of bills of one biller be associated with multiple different network location indicators, each indicating a location at which a bill of the biller is available.

Independent claim 23 is distinguishable for reasons which are believed to be clear from the above.

It is further respectfully submitted that other features recited in the dependent claims independently distinguish over the applied prior art. For example, the Examiner has failed to identify any disclosure within the applied prior art of the following recited features:

The identified bill of the first biller for the first user is available with supplemental information at the first network address, and the identified bill of the first biller for the second user is available without the supplemental information at the second network address, of claim 2.

The transmitted bill availability information identifying the available bill of the first biller for the first user includes a hyperlink to the first network address, and the transmitted bill availability information identifying the available bill of the first biller for the second user includes a hyperlink to the second network address, of claim 3.

The first user station being automatically linked to the first network address responsive to the first bill selection, and the second user station being automatically linked to the second network address responsive to the second bill selection, of claim 4.

The plurality of different biller stations, each associated with a respective one of the plurality of different billers, a first of the plurality of different biller stations being associated with the first biller, wherein the first network address is a network address associated with the first biller station, and the second network address is a network address associated with the central processing station, of claim 5.

Each of the plurality of different user stations being further configured to select one of the identified bills for payment, and the first and the second user stations being respectively linked to the first and the second network addresses based on a bill selection for one of viewing and payment of the selected bill, of claim 9.

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The information associated with each of the identified bills available at the first network address being promotional information, and the information associated with each of the identified bills available at the second network address being detailed bill information, of claim 10.

The transmitting of a first hyperlink to the first network address with the bill availability information identifying the first bill, and a second hyperlink to the second network address with the bill availability information identifying the second bill, wherein the first request is received at the first network address via the first hyperlink and the second request is received at the second network address via the second hyperlink, of claim 13.

The automatic transmitting of the generated first request to the first network address, and the second generated request to the second network address, of claim 14.

The first request being one of a request to pay and a request to view the identified first bill and the transmitted information associated with the first bill including promotional information, and the second request being one of a request to pay and a request to view the identified second bill and the transmitted information associated with the second bill excluding the promotional information, of claim 16.

The first network address being transmitted as a first hyperlink, and the second network address being transmitted as a second hyperlink, of claim 19.

The processor being further configured to receive requests for the available bills for the plurality of users including a first request for the available bills for the first user and a second request for the available bills for the second user, and directing the transmission of the stored first bill identifier responsive to the received first request and the stored second bill identifier responsive to the received second request, of claim 20.

The associated information available at the first network address including promotional information, and the information available at the second network address excluding the promotional information, of claim 21.

The information associated with the identified first available bill including promotional information, and the information associated with the identified second available bill excludes the promotional information, of claim 24.

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The directing of the transmission of the first network address as a first hyperlink in association with the transmission of the first bill identifier, and of the second network address as a second hyperlink in association with the transmission of the second bill identifier, of claim 25.

The identified first available bill being available at the first network address and the second available bill being available at the second network address, of claim 27.

4. THE REJECTION IS BASED ON EITHER AN IMPROPER HINDSIGHT RECONSTRUCTION OF THE INVENTION BASED ON THE APPLICATIONS OWN TEACHINGS OR ON PURE SPECULATION

Hindsight obviousness after the invention has been made is not the test. In re Carroll, 601 F.2d 1184, 202 USPQ 571 (CCPA 1979). The reference, viewed by itself and not in retrospect, must suggest doing what applicant has done. In re Shaffer, 229 F.2d 476, 108 USPQ 326 (CCPA 1956); In re Skoll, 523 F.2d 1392, 187 USPQ 481 (CCPA 1975).

Inherency requires certainty, not speculation. In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); In re King, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986); W. L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983); In re Oelrich, 666 F.2d 578, 212 USPQ 323 (CCPA 1981); In re Wilding, 535 F.2d 631, 190 USPQ 59 (CCPA 1976). Objective evidence must be relied upon to defeat the patentability of the claimed invention. Ex parte Natale, 11 USPQ2d 1222 (BPAI 1988).

Furthermore, as the Federal Circuit recently reiterated, reliance on common knowledge and/or common sense also cannot be the basis of finding obviousness (See In re Lee 61 USPQ 2d 1430 (Fed. Circ. 2002)). The deficiencies in the applied art cannot be remedied by general conclusions which, in view of the disclosure in the present application, may appear to be common sensible.

As discussed in detail above, the appealed claims have been rejected without objective factual support or rational. The prior art cited in support of the rejections has been applied in a manner inconsistent with its own teachings. A combination has been

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asserted for which no motivation exist and which includes art which is not prior art. Express limitations set forth in the claims have been completely or effectively ignored. The evidence shows that there is nothing in the applied prior art to support the Examiner's position that the present claims are obvious. Hence, at best, it can only be concluded that the rejection of the claims, as set out in the Final Official Action, reflects an improper hindsight reconstruct the invention using the inventors own disclosure, or reliance on pure speculation.

CONCLUSION

It is respectfully submitted that the Examiner (i) has applied art which is not prior art (ii) has failed to establish a prima facie case for the rejection, (iii) has proposed to combine art in a manner which is unmotivated, (iv) has failed to apply art which teaches or suggests the claimed invention, and (v) has, at best, attempted to improper reconstruct the invention using the inventors own disclosure or relied on pure speculation in rejecting the claims. Thus, the rejection of the pending claims over the applied prior art, whether taken individually or in any combination, is improper.

In summary, Applicants respectfully submit that the applied references do not teach or suggest features recited in each of the rejected independent claims, as well as features recited in the dependent claims, and the Examiner has failed to provide reasonable evidence to support a contrary conclusion. Furthermore, the proposed combinations of the applied references are themselves unmotivated and therefore improper. Accordingly, it is submitted that the prior art does not provide any teaching, or suggestion within its teachings, which would lead to the features or advantages of the instant invention, and the claims patentably define over the prior art. The rejection can therefore only be based on an improper hindsight reconstruction or pure speculation. Thus, the rejection of the pending claims is in error, and reversal is clearly in order and is courteously solicited.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 01-2135 and please credit any excess fees to such deposit account.

Respectfully Submitted,
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APPENDIX OF CLAIMS UNDER APPEAL

1. A network for electronically presenting bill related information, comprising:

a central network station configured to transmit bill availability information identifying available bills of a plurality of different billers for a plurality of different users, information associated with each of the identified bills of a respective one of the plurality of different billers being available at one of a first network address associated with the respective biller and a second network address associated with the respective biller; and

a plurality of different user stations, each associated with a respective one of the plurality of different users, and configured to receive the transmitted bill availability information for its associated user and to select one of the identified bills;

wherein a first of the plurality of user stations, associated with a first of the plurality of different users, is linked to the first network address associated with a first of the plurality of different billers based on a first bill selection by the first user station, and a second of the plurality of user stations associated with a second of the plurality of different users is linked to the second network address associated with the first biller based on a second bill selection by the second user station.

2. A network according to claim 1, wherein:

the identified bill of the first biller for the first user is available with supplemental information at the first network address, and the identified bill of the first biller for the second user is available without the supplemental information at the second network address.

3. A network according to claim 1, wherein:

the transmitted bill availability information identifying the available bill of the first biller for the first user includes a hyperlink to the first network address; and

the transmitted bill availability information identifying the available bill of the first biller for the second user includes a hyperlink to the second network address.

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4. A network according to claim 1, wherein:
the first user station is automatically linked to the first network address responsive to the first bill selection; and
the second user station is automatically linked to the second network address responsive to the second bill selection.
5. A network according to claim 1, further comprising:
a plurality of different biller stations, each associated with a respective one of the plurality of different billers, a first of the plurality of different biller stations being associated with the first biller;
wherein the first network address is a network address associated with the first biller station; and
wherein the second network address is a network address associated with the central processing station.
6. A network according to claim 1, wherein:
each of the plurality of user stations is further configured to display the transmitted bill availability information, to receive an input of its associated user, and to select one of the identified bills based on the received input.
7. A network according to claim 1, wherein:
the plurality of user stations are further configured to transmit requests for the bill availability information; and
the central network station is further configured to transmit the bill availability information responsive to the transmitted requests.
8. A network according to claim 1, wherein:
the bill availability information identifies available bills without identifying an amount of each of the bills.

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9. A network according to claim 1, wherein:

the bill availability information identifies the total amount of each of the available bills;

each of the plurality of different user stations is further configured to select one of the identified bills for payment; and

the first and the second user stations are respectively linked to the first and the second network addresses based on a bill selection for one of viewing and payment of the selected bill.

10. A network according to claim 9, wherein:

the information associated with each of the identified bills available at the first network address is promotional information and the information associated with each of the identified bills available at the second network address is detailed bill information.

11. A network according to claim 1, further comprising:

a database configured to store the bill availability information; and

the central network station is further configured to transmit the stored bill availability information.

12. A method of electronically distributing bill related information, comprising the steps of:

centrally receiving initial requests for bills of a plurality of different billers for a plurality of different users;

transmitting, responsive to the received initial requests, bill availability information, identifying available bills of the plurality of different billers for the plurality of different users, including a first bill of a first of the plurality of different billers for a first of the plurality of different users and a second bill of the first biller for a second of the plurality of different users;

receiving a first request relating to the identified first bill of the first biller at a first

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network address and a second request relating to the identified second bill of the first biller at a second network address, different than the first network address; and

transmitting information associated with the first bill from the first network address responsive to the receipt of the first request and information associated with the second bill from the second network address responsive to the receipt of the second request.

13. A method according to claim 12, further comprising the steps of:

transmitting a first hyperlink to the first network address with the bill availability information identifying the first bill; and

transmitting a second hyperlink to the second network address with the bill availability information identifying the second bill;

wherein the first request is received at the first network address via the first hyperlink;

wherein the second request is received at the second network address via the second hyperlink.

14. A method according to claim 12, further comprising the steps of:

generating the first request based on an input of the first user;

generating the second request based on an input of the second user;

automatically transmitting the generated first request to the first network address;

and

automatically transmitting the second generated request to the second network address.

15. A method according to claim 12, wherein:

the bill availability information identifies available bills without identifying an amount of each of the bills.

16. A method according to claim 12, wherein:

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the first request is one of a request to pay and a request to view the identified first bill and the transmitted information associated with the first bill includes promotional information; and

the second request is one of a request to pay and a request to view the identified second bill and the transmitted information associated with the second bill excludes the promotional information.

17. A method according to claim 12, further comprising the steps of:

centrally storing the bill availability information;

wherein the transmitted bill availability information is the stored bill availability information.

18. A system for electronically distributing bill related information, comprising:

a memory configured to store identifiers of available bills of a plurality of different billers for a plurality of different users, and network addresses at which information associated with the identified bills is available, including a first bill identifier which identifies a first of the available bills of a first of the plurality of billers for a first of the plurality of users and a second bill identifier which identifies a second of the available bills of the first biller for a second of the plurality of users; and

a processor configured to direct the transmission of the stored first bill identifier to the first user with a first of the network addresses, and the transmission of the stored second bill identifier to the second user with a second of the network addresses, the first network address being different than the second network address;

wherein the information associated with the first bill is available at the first network address and the information associated with the second bill is available at the second network address.

19. A system according to claim 18, wherein:

the first network address is transmitted as a first hyperlink; and

the second network address is transmitted as a second hyperlink.

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20. A system according to claim 18, wherein:

the processor is further configured to receive requests for the available bills for the plurality of users including a first request for the available bills for the first user and a second request for the available bills for the second user, and to direct the transmission of the stored first bill identifier responsive to the received first request and the stored second bill identifier responsive to the received second request.

21. A system according to claim 18, wherein:

the associated information available at the first network address includes promotional information; and

the information available at the second network address excludes the promotional information.

22. A database for storing bill related information, comprising:

identifiers of a plurality of different users;

identifiers of a plurality of available bills of a biller for the plurality of different users; and

a network location indicator associated with one or more of the plurality of available bills and indicating that a network location at which information associated with the one or more bills is available is different than a network location at which information associated with other of the plurality of available bills is available.

23. An article of manufacture for electronically transmitting bill related information, comprising:

a computer readable storage medium; and

computer programming stored on the medium and configured to be readable from the medium by a computer processor and thereby cause the processor to operate so as to:

direct transmissions of a plurality of identifiers of available bills of a plurality of

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different billers for a plurality of different users, including a first of the plurality of bill identifiers which identifies a first of the available bills of a first of the plurality of different billers for a first of the plurality of different users and a second of the plurality of bill identifiers which identifies a second of the available bills of the first biller for a second of the plurality of users; and

direct transmissions of a plurality of different network addresses at which information associated with the identified available bills is available, including a first of the plurality of network addresses at which information associated with the identified first available bill is available to the first user, and a second of the plurality of network addresses, different than the first network address, at which information associated with the second available bill is available to the second user.

24. An article of manufacture according to claim 23, wherein:

the information associated with the identified first available bill includes promotional information; and

the information associated with the identified second available bill excludes the promotional information.

25. An article of manufacture according to claim 23, wherein the stored computer programming is readable by the computer processor to thereby cause the processor to further operate so as to:

direct the transmission of the first network address as a first hyperlink in association with the transmission of the first bill identifier; and

direct the transmission of the second network address as a second hyperlink in association with the transmission of the second bill identifier.

26. An article of manufacture according to claim 23, wherein the stored computer programming is readable by the computer processor to thereby cause the processor to further operate so as to:

receive requests for the available bills for the plurality of users including a first

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request for the available bills for the first user and a second request for the available bills for the second user; and

direct the transmission of the first bill identifier responsive to the received first request and the second bill identifier responsive to the received second request.

27. An article of manufacture according to claim 23, wherein the identified first available bill is available at the first network address and the second available bill is available at the second network address.